IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

THURSDAY, THE 23RD AUGUST 2007 / 1ST BHADRA 1929

WP(C).No. 16810 of 2007()

PETITIONER:

V.N.HARINDRAN,MANAGER,
VIVAKODAYAM SANSKRIT VECCATIONAL HIGHER SECONDARY SCHOOL (V.SV.H.S.S.),EZHUKONE,
KOLLAM DISTRICT.

BY ADV. SRI.ELVIN PETER P.J.

RESPONDENTS:

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1. THE STATE OF KERALA, REPRESENTED BY ITS SECRETARY TO GOVERNMENT, REVENUE DEPARTMENT, GOVERNMENT SECRETRIAT,THIRUVANANTHAPURAM & COMMISSIONER LAND REVENUE DEPARTMENT, THIRUVANANTHAPURAM.

2. THE ADDITIONAL COMMISSIONER, LAND REVENUE DEPARTMENT, COMMISSIONERATE OF LAND REVENUE, THIRUVANANTHAPURAM.

3. THE DISTRICT COLLECTOR, KOLLAM.

4. THE ADDITIONAL TAHSILDAR, TALUK OFFICE, KOTTARAKKARA.

5. NATIONAL HIGHWAY AUTHORITY OF INDIA, REPRESENTED BY ITS EXECUTIVE ENGINEER, N.H.BEACH ROAD, KOLLAM.

BY GOVT.PLEADER SRI.I.V.PRAMOD

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 23/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1	TRUE COPY OF THE ROUGH SKETCH SHOWING THE LIE OF THE PROPERTY.
EXT.P1a	TRUE COPY OF THE ROUGH SKETCH SHOWING THE PERMANENT BUILDING OF THE VSVHSS.
EXT.P2	TRUE COPY OF THE NOTICE DTD.30.5.2007 ISSUED TO THE PETITIONER BY THE 4TH RESPONDENT.

TRUE COPY

P.A.TO JUDGE

css/

S. SIRI JAGAN, J.

WP(C) NO. 16810 OF 2007 - A

Dated this the 23rd day of August, 2007

J U D G M E N T

The petitioner challenges Ext.P2 notice by which the petitioner has been directed to vacate the properties mentioned therein. The contention of the petitioner is that he has not encroached into any Government land and therefore, there is no question of eviction from any Government land. He further submits that the property in question abuts the national Highway which vests with the Government of India and if at all, only the authorities under the Government of India can have jurisdiction in the matter. I am not inclined to consider all these contentions in the writ petition because the petitioner can raise all these contentions before the fourth respondent.

2. The contention of the petitioner is that Ext.P2 has not been preceded by any show cause notice or hearing. The learned Government Pleader could not

contradict this submission. That being so, it is clear that Ext.P2 has been issued in violation of principles of natural justice. In the above circumstances, the writ petition is disposed of with the following directions:-

The fourth respondent shall treat Ext.P2 as a show cause notice. The petitioner shall file his objections to the same within a period of two weeks. The petitioner shall be afforded an opportunity of being heard which shall include an opportunity to adduce evidence also. Thereafter, the fourth respondent shall pass a speaking order considering the contentions and the evidence of the petitioner. In view of the fact that the property in question comprises of a school, if the orders to be passed by the fourth respondent are adverse to the petitioner, the petitioner shall be given one month's time to take further proceedings against the same till which time the petitioner shall not be evicted from the property. I also specifically direct that

the fourth respondent shall also consider the jurisdiction of the claim made by the petitioner.

S. SIRI JAGAN,
Judge

Mbs/

S.SIRI JAGAN, J

W.P.(C) NO. OF 2001

J U D G M E N T

DATED: -08-2007